THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.9921 OF 2001

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DATED: 10-04-2006

BETWEEN

P. Butchi Raju, S/o. P. Devan Raju,

R/o. Saroornagar, Hyderabad.

...PETITIONER

AND

The Municipal Corporation of Hyderabad

Rep. by its Commissioner, Tank Bund Road,

Hyderabad.

...RESPONDENT

ORDER:

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Petitioner seeks a Writ of Mandamus to declare the action of the respondent in seeking to demolish the premises bearing No.17-1-6/A admeasuring 470.82 sq. meters situated at Santoshnagar, Hyderabad without issuing any notice and contrary to the provisions of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act') as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner is the absolute owner of the aforementioned property having purchased the same from the Andhra Pradesh Housing Board through Registered Sale Deed dated 16.06.1989 vide document No.1021/1989.

He further submits that the petitioner obtained sanction for construction of residential flats, stilt for parking and ground plus five upper floors vide permit No.145/22 in file

No.76/TPI/2000 dated 13.07.2000 and completed the construction as per the sanctioned plan without any deviations. While so, the respondent corporation without issuing any notice tried to demolish the structures alleging that there are certain deviations.

A counter has been filed stating that respondent corporation served a notice under Section 452 of the Act on the petitioner on 11.05.2001 as on the personal inspection of the petitioner's site it was found that by way of balcony projection in the second and third floors and in the ground floor, the petitioner has not maintained side open spaces and is proposing to construct the shops in the ground floor, which is in violation of land as per the rules in force and also unauthorizedly constructed the cellar on the main road which is clear violation of G.O.Ms.No. 423 dated 31.07.1998. Without filing any explanation to the said notice and even before passing any final orders the petitioner filed this writ petition and obtained interim stay of demolition and completed the construction with gross deviations, which is liable to be demolished.

Having regard to the facts and circumstances of the case,
the respondent is directed to issue a fresh show cause notice under Section 452 of the Act pointing out the specific deviations seeking an explanation from the petitioner within one week and consider the explanation and pass appropriate orders. If no such explanation is filed, the respondent is at liberty to pass order under Section 636 of the Act to demolish the unauthorized structures made contrary to the sanction plan.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

April 10, 2006

DSK